

Chapter III Project Development

III. Project Development	3-2
A. Overview	3-2
B. Request for Proposal and/or Application	3-2
C. Grant Guidance Manual	3-3
D. Grant Development Calendar	3-4
Table 7. Grant Development Calendar	3-4
E. Contract Preparation Process	3-5
i. Time Period	3-5
ii. Problem Identification	3-5
iii. Agency Qualifications	3-5
iv. Project Goals	3-6
v. Project Activities	3-6
vi. Performance Measures/Evaluation	3-7
vii. Budget	3-8
viii. Contractual Services	3-9
ix. Travel and Subsistence	3-10
x. Grant Extensions	3-10
xi. Subgrantee Matching Funds	3-10
xii. Other Contract Stipulations	3-10
Attachment 5	

III. Project Development

A. Overview

Traffic safety projects may be initiated as a result of several types of “needs” including:

- Statewide and local problem identification
- State agency initiative
- Community initiative
- Key events

In alignment with the problem identification, performance goals and key strategies identified in the annual Performance Plan section of the HSP, the TSO will select projects designed to reduce the number of deaths and serious injuries resulting from traffic crashes and may solicit applications for grants to fund for this purpose.

If the TSO chooses to solicit grant applications, grant application processes should collect the most current data available to identify a traffic safety problem, and provide for a workable solution linked to the identified problem, detailed action plans, and budgets that demonstrate an understanding of the various issues to be resolved and a reasonable approach to resolving the identified problem. Proposed projects must be closely related to problem identification results.

The development of final grant agreements is a two-step process. Proposed grant applications are first submitted to the TSO by potential subgrantees following a prescribed process and deadlines. For successful applicants, the application form is used to draft the final grant agreement or contract.

The TSO contract is a legally binding document when fully executed by both parties. It includes all terms and conditions, a detailed scope of work, the approved budget, and certain required certifications and assurances.

RESOURCES:

[Partnering with Highway Safety Offices: Tips and Tactics for Success](#)

B. Request for Proposal and/or Application

The TSO undertakes two distinct processes to identify contractors.

Procurement of Services. Contractors providing services to the TSO (i.e., consulting, media placement, evaluation, etc.) are procured via North Dakota procurement law (North Dakota Century Code 54-44.4, *State Purchasing Practices*) which requires competitive procurement for service purchases in excess of \$25,000 over the life of the contract. Requests for Proposals (RFPs) are issued every two to four years to assure quality, cost-effective services.

Grants. Grant applications are solicited through a more informal process. The TSO invites various partner agencies and organizations (traditional and non-traditional) to respond to a Request for Applications (RFA) for projects that will address the state's identified traffic safety problems and assist the TSO to achieve established performance goals. RFAs may be issued per the TSO's discretion and are typically issued annually.

The responsibility for compiling the necessary information to revise and finalize the annual RFA and RFP processes is assigned to the TSO Manager, or the manager's delegate.

If the TSO chooses to solicit grant applications, potential grantees are sent a letter in April/May with grant guidance and instructions to complete the grant application. Grant applications are due to the TSO by June 30.

Grant applications are reviewed and scored by established teams that may include the TSO, other NDDOT staff, and various state and local program partners. Proposal evaluation is designed to provide an increased number of points to contractors or grant recipients with proposals that best support the needs of the HSP. Evaluation questions include:

- Does the proposal adequately describe the traffic safety problem?
- Are the program objectives SMART (specific, measurable, attainable, realistic and time-framed)?
- Is there a level of confidence in the grantee and project personnel?
- Is the evaluation plan adequate?
- Is the budget realistic and cost-effective?

After all the grant applications are scored, they are ranked from most to least relevant based on their ability to impact traffic safety performance measures, and accepted as funding levels permit.

All proposals remain confidential until the grant agreement is signed by the NDDOT and the applying agency. After both parties have signed, the grant agreements are public records as defined in the state's open records laws.

Grant solicitation documents can be located on the TSO webpage at <http://www.dot.nd.gov/divisions/safety/trafficsafety.htm> under "Applying for Funds."

Note: All traffic safety contracts must comply with the *NDDOT's Contract Manual for Nonconstruction Contracts*.

C. Grant Guidance Manual

The purpose of the Grant Guidance Manual (i.e., *Grant Guidelines for Traffic Safety Programs* document) is to establish program and grant management procedures and provide guidance to subgrantees for the development and administration of grant agreements. The guidance should assist subgrantees to understand grant development requirements including an outline of the specific objectives of the project, budget, performance measures, and commitment of responsibility by the TSO and the subgrantee.

The guidance should contain the following:

- Key elements of the grant application
- Grant review and approval process
- Equipment record requirements
- Certifications and assurances
- Applicable federal regulations and any recent revisions
- Timelines
- Reporting and invoicing requirements
- Allowable and unallowable costs
- Lobbying restrictions
- Other information

Revisions are made as soon as possible to accommodate any changes in state or federal laws or regulations. TSO staff are informed when revisions are made to the guidance.

On the TSO's *Grant Application Cover Sheet* subgrantees are required to acknowledge that they've reviewed and understand the terms of the grant as outlined in the grant guidance.

The guidance can be located on the TSO webpage at <http://www.dot.nd.gov/divisions/safety/trafficsafety.htm> under "Applying for Funds."

D. Grant Development Calendar

When the TSO decides that there is adequate discretionary funding to allow for the solicitation of grant applications, the following processes are used.

Grant application solicitation notices containing the issues to be addressed including identified problems and goals are sent by the TSO to public and private agencies who are deemed best able to help attain the TSO goals.

Potential subgrantees are asked to submit to the TSO a grant application form containing a problem statement, a description of proposed activities, and a complete budget. Projects must have a direct link to the TSO identified problems and goals identified within the HSP. The grant application cover page requires the applicant to provide a project name and brief description along with their agency name, address, and authorizing official signature.

The TSO Manager and Program Managers review each application to verify that it addresses the identified problems and meets all of the application requirements, and, review the budget component of each of the proposals. If necessary, the Program Manager works with the potential subgrantee to resolve any questions and develop a fully detailed and complete proposed grant application prior to the Grant Review Team referral. The Grant Review Team scores the proposals. The Program Managers resolve any remaining questions. The TSO Manager and Program Managers make grant selection recommendations to the Safety Division Director for final approval.

Table 7. Grant Development Calendar

Month	Activity
April-May	As funding allows, solicit RFAs from potential subgrantees. Post RFA on TSO website
June – July	Receive and review proposed grant applications and contact applicants for clarification or missing information
June – July	Invite TSO Grant Review Team to review proposed grant applications
July – August	Grant Review Teams review grant applications and identify agreements for potential funding Complete grant negotiations and make final grant selections
August 15	Develop the draft HSP to include selected projects and submit the draft to NDDOT leadership for approval
September 1	Submit HSP to the National Highway Traffic Safety Administration (NHTSA) Regional Office for approval
August - September	Notify successful applicants and finalize grant agreements Obtain approval for grants and contracts from the appropriate Department officials
October	Implement grant agreements

E. Contract Preparation Process

Proposed contracts must support the goals and strategies established for the emphasis program areas in the HSP. Grant projects implement the HSP.

The contract serves to:

- Produce a clearly defined problem statement
- Produce a clearly specified scope of work
- Define goals and performance measures
- Define respective roles and responsibilities
- Achieve understanding among all parties
- Reach consensus
- Assure accountability

The key elements of a contract are:

- Problem identification
- Objectives (applicable goals are normally listed in the HSP)
- Performance measures
- Action plan with tasks, activities, and timelines (if applicable)
- Evaluation plan
- Budget/budget narrative
- Terms and conditions
- Certifications and assurances

i. Time Period

The grant period is the time during which the subgrantee may incur reimbursable costs to carry out the project. The grant period should be long enough to allow the project to be completed. The typical time period is October 1 through September 30. However, based on specific circumstances and project goals, the TSO may also approve other grant time periods within a fiscal year and extend grant time periods although generally not longer than three years. See subsection x. *Grant Extensions*.

ii. Problem Identification

The problem identification section of each proposed grant application should include a problem statement which is supported by crash data analysis, program and community needs assessment information, or other relevant data. The TSO may assist potential applicants with obtaining the necessary data.

Applicants should review the key funding priorities and problem areas identified in the HSP for the upcoming grant year. All proposed grant applications must support the primary goal to reduce the number of injuries and deaths resulting from traffic crashes. The problem identification section must focus on one or more of the primary or secondary goals and emphasis areas described in the HSP.

Additional guidance for preparation of the problem identification statement can be found in *Chapter II. Planning, Section E. Identification of State and Local Problems (Data Analysis Procedure)*.

iii. Agency Qualifications

The TSO must determine if the applicant agency is qualified to receive federal highway safety grant funds and is the appropriate agency to conduct the proposed project activity based on past experience, education, skills and/or community or statewide leadership authority. The applicant must provide

information in the proposed grant application regarding the agency's background, such as, prior funds managed, relevant project experience, etc. This is especially important if the TSO has no past experience working with the applicant.

Eligible agencies must be able to perform the following:

- Deliver services promptly
- Manage public funds efficiently
- Collaborate with other community, governmental, and private organizations
- Develop data-driven problem solving plans
- Adequately evaluate the success of a project

iv. Project Goals

Proposed grant applications must address one or more of the traffic safety issues identified in the HSP in order to receive consideration. The project goals stated in the proposed grant application should clearly state the ultimate outcome the applicant hopes to accomplish and in measurable terms. For example, "increase enforcement of DUI laws as measured by..." or "reduce the incidence of incorrect use of child safety seats as measured by..."

A guideline called the SMART principle to assess performance goals is recommended. SMART stands for:

- Specific
- Measurable
- Action-oriented
- Realistic
- Time-framed

It is generally preferred that goals be based on outcomes (i.e. seat belt use rate) rather than be output or activity based (i.e. number of tickets written). Depending on the exact nature of the funded activity, in some cases a combination of outcome- and output-based goals or just output goals may be most appropriate.

v. Project Activities

Activities must be identified in the proposed grant application and must clearly explain in detail the anticipated activities that will be funded. This explanation should show a logical sequence of events that will take place to accomplish the goal(s). The proposed activity must be either a best practice/proven strategy supported by research or a demonstration project designed to test an innovative approach.

In selecting countermeasure activities, the project proposal should clearly identify the target audience (i.e., impaired drivers, unbuckled vehicle occupants, etc.).

Countermeasures should be such that a "reasonably prudent mind" would believe that it would produce effective results. Countermeasures should relate directly to the proposal's project goals and the goals and emphasis areas in the HSP.

See also *Chapter II. Planning – Section F – Key Program Areas, Goals and Strategies* for countermeasure development resources.

vi. Performance Measures/Evaluation

Performance measures and standards are required to be clearly defined in each project proposal in the proposed grant application. Subgrantees should detail how they will evaluate and measure the effectiveness of their project toward achieving its goals. Evaluation should be expressed in terms of what they intend to measure (numbers, attitudes, knowledge, etc.), what they plan to accomplish, or a measure of what will change. These measures and standards provide guidelines to determine the efficiency and effectiveness of the grant. Performance measures must be negotiated and acceptable to all grant personnel. A well thought-out project evaluation process is critical.

Performance measures may be shown as specific requirements, for example:

- "Improve seat belt usage by X percentage points from (date) to (date) "
- "Increase child safety seat use by X percentage points from (date) to (date)"

For some types of projects, however, the work unit must be specific, for example:

- "Submit one report"
- "Produce one public service announcement"

Additional guidance for preparation of performance measures can be found in *Chapter II. Planning, Section G. Performance Measures* and should be referenced by applicants and TSO staff.

Evaluation brings the traffic safety process full circle as the results help the TSO determine whether any of the preceding steps need adjustment. For this reason, evaluation is an ongoing process in the management of the state's traffic safety program. To reliably evaluate a project, performance measures must have been identified ahead of time as they will comprise the basis for the evaluation design.

Evaluation allows all involved to:

- Assess project or program effectiveness
- Improve countermeasures
- Allocate scarce resources more efficiently

The following should be considered by the TSO when considering evaluation:

- Require all grants and contracts contain an evaluation component
- Select scientific evaluation vs. process evaluation (size of project, type of activity)
- Select evaluator, objectives, and grant length
- Determine baseline and timing of data collection
- Develop an overall program evaluation process to assess long-term impact

The TSO will review and analyze grant progress reports and evaluation reports and interpret analysis results to determine the appropriate application of the information within the program.

The results of the evaluation can be used to:

- Summarize findings for distribution to appropriate persons and organizations (i.e., website publication)
- Incorporate results into future program planning
- Publish, distribute, and encourage use of the TSO Annual Report
- Present information to the media and elected officials

vii. Budget

The applicant provides a proposed project budget as a component of the grant application. After negotiation with the TSO to determine a final budget, the budget becomes incorporated into the final grant agreement.

The TSO RFA provides applicants with a Budget Summary format to prepare a proposed budget for submission with the application. A detailed cost breakdown must be negotiated to justify proposed costs. The approved project budget should be as detailed as appropriate for fiscal control.

The TSO Budget Summary form may include the following line items:

1. Salaries and Wages
2. Fringe Benefits
3. Travel
4. Contractual Services
5. Equipment (each individual piece of equipment valued at \$5,000 or more must be identified)
6. Other Direct Costs
7. Indirect (only when the contracted entity has an approved indirect cost rate)

For each line-item, the applicant is required to identify both the TSO share requested, the applicant matching share (if applicable), and any other funding sources. Local or applicant resources used and in-kind contributions such as personnel costs, etc., should be itemized and added in the total budget.

The method of payment is a negotiated item, within the constraints of federal or state guidelines. No reimbursement is allowed before work has been performed or costs have been incurred.

The following deviations by the subgrantee from the approved budget require the PRIOR approval of the TSO:

- a. A specific item of cost not included in the approved budget.
- b. An increase in the number of a specific item over and above the total authorized.
- c. A transfer between major budget categories.

Costs incurred before the contract start date listed in the contract (typically October 1) are not eligible for reimbursement. Costs incurred after the grant agreement expires are also not eligible for reimbursement.

Subgrantees may be reimbursed on the basis of actual cost, cost per unit, specific rates, fixed costs, or a combination of these methods. Explanations of the methods of payment follow.

Actual Cost: Actual cost agreements authorize the TSO to reimburse the subgrantee for all costs incurred under the project, subject to cost principles included in *2 CFR Part 225, Cost Principles for State, Local, and Indian Tribal Governments*.

Traffic safety grants are limited to the amounts and items authorized in the budget. Adjustments between cost categories within the budget are allowed with prior written approval from the TSO.

Cost Per Unit of Work: Some agreements are reimbursed on the basis of units of work performed. This method of payment uses a negotiated per-unit cost, with each component documented and approved in a detailed cost proposal. This method of payment eliminates the need to document each element included in the subgrantee invoice, requiring instead that the *performance* of work be documented. However, the negotiated rate must be based on documented actual costs and experience in performing the prescribed task. **EXAMPLES:** \$100 per person trained *or* \$40 per car seat distributed.

Specific Rates: Grants may authorize payment on the basis of specific rates. This method uses a composite of all or selected costs. **EXAMPLES:** Salary: \$50 per hour, travel, and per diem: \$85 per day, \$0.32 per mile

Fixed Cost (Fee for Service): The grant may authorize payment of an agreed upon fixed amount not subject to modification. Payments are made periodically at agreed upon intervals or once, upon completion of the project.

Documentation must be on file demonstrating that the fixed cost is reasonable (per 2 CFR 225, *General Principles for Determining Allowable Costs*).

Overtime Rate: The majority of grants involving increased enforcement of traffic laws rely on the payment of overtime hours for patrol officers. The overtime pay rate for officers is based on actual cost per employee in accordance with the subgrantee's policy for payroll and salary rate. When a project includes overtime salary or wages, traffic safety funds can pay for the additional cost of fringe benefits directly associated with the overtime hours not covered by the employee's basic benefit package (an example of an eligible fringe benefit cost associated with overtime would be an employer's contribution to a retirement plan). The costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law, employee agreement, or an established policy.

Allowable Costs: Reference should be made to *Chapter VI. Fiscal Procedures, Section E. Allowable Costs*, for discussion of subgrantee allowable costs.

Proportionate Funding: For all activities and equipment to be funded, which have components both related and unrelated to a highway safety grant, the federal share shall be based proportionately on the projected use for the NHTSA grant purposes. For example, the NHTSA participation in the cost of Gas Chromatograph Mass Spectrometers for quantitative testing of drug evidential samples shall be on a pro-rata basis. If a police department plans to use this equipment 20 percent of the time to identify impaired driving evidence and 80 percent of the time to identify evidence for the narcotics squad, the federal participation must not exceed 20 percent of the total cost of the equipment.

viii. Contractual Services

Contractual services are services of individual consultants or consulting firms engaged in performing special service pertinent to traffic safety. All subgrantees awarding subcontracts shall comply with the terms and conditions of *49 CFR Part 18, Uniform Administrative Requirements for Grant and Cooperative Agreements to State and Local Governments, Section 18.36 Procurement*.

A subgrantee shall not enter into any subcontract without prior written concurrence by the TSO.

Subcontracts shall contain all required provisions of the subgrantee's grant agreement terms and conditions. No subcontract will relieve the subgrantee of its responsibilities under the grant agreement. Subcontracts can be between government agencies as well as with non-government entities for professional services.

Per NHTSA's *Highway Safety Grant Funding Policy for Field-Administered Grants* – "Costs are allowable for highway safety consultant services from universities, public agencies, non-government organizations, and individuals for state or local highway safety support services or products consistent with the applicable OMB Circular, provided applicable state procurement procedures are followed and the state's official contract and procurement manual is maintained in the State's Highway Safety Office."

ix. Travel and Subsistence

Travel directly related to traffic safety and linked to the grant objective(s) is allowable. In-state travel is subject to prevailing state rates and state travel regulations.

The TSO's reimbursement for airfare, car rental, per diem, and other travel costs will be based on state travel policy. Reimbursement of travel costs cannot exceed established state rates, unless negotiated in the grant agreement.

Out-of-state travel must be pre-approved by the TSO either through the grant application process or a separate request to travel during the course of the grant year. Out-of-state travel expenses for lodging and per diem are reimbursed at GSA (U.S. General Services Administration) rates.

See Chapter V. Grant Administration and Management, Section H. Subgrantee Travel.

x. Grant Extensions

If both the TSO and the subgrantee agree that the project has demonstrated great merit and has potential long-range benefit, or if the project scope is modified or expanded, the subgrantee may apply for continued funding assistance.

Although not mandatory, a general rule is to limit grant projects to not more than three years. Any project being considered for extension beyond three years should be reviewed for exceptional project performance and:

- Include revisions or expansions to the scope of the project (assuming that the subgrantee will continue the portion of the project previously supported with federal funds)
- Document a continued need for the project
- Receive specific approval from the TSO

Like any grant agreement, multi-year projects may be stopped or cancelled for cause or convenience, including termination for poor or non-performance. A letter to the subgrantee is required if funds are not available to continue the project.

xi. Subgrantee Matching Funds

The TSO may provide the required federal matching funds by directly soliciting match from state and local agencies in a consolidated manner or may require subgrantees provide a minimum soft or hard match for certain grants. Both methods are acceptable as long as the minimum federal matching requirements are met.

See Chapter IV. Grant Selection and Execution, Section H. Development of Highway Safety Office Internal Grants, and, Chapter VI. Fiscal Procedures, Section C. Matching Funds.

xii. Other Contract Stipulations

Seat Belt Policy. All contractors must have a seat belt use policy in place before requesting reimbursement for any work completed under this agreement. The TSO Program Managers will locate and review the policy during scheduled on-site monitoring visits, if applicable. Absence of a policy may result in the NDDOT withholding payment until a policy is in place.

Appendix B. The contract's Appendix B includes all general terms, conditions, certifications and assurances. (Attachment 5)

GENERAL TERMS, CONDITIONS, CERTIFICATIONS AND ASSURANCES**Buy America Act**

The Contractor will comply with the provisions of the Buy America Act (49 U.S.C. 5323(j)) which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest; that such materials are not reasonably available and of a satisfactory quality; or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

Debarment and Suspension**Instructions for Primary Certification**

1. By signing this agreement, the Contractor certifies the following.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and Coverage sections of 49 CFR Part 29. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;
 - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

- d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below.)
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Drug-Free Workplace Act of 1988 (41 U.S.C. 702)

The Contractor will comply with the requirements of the Drug-Free Workplace Act of 1988 by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing a drug-free awareness program to inform employees about:
 - a. The dangers of drug abuse in the workplace.
 - b. The grantee's policy of maintaining a drug-free workplace.
 - c. Any available drug counseling, rehabilitation, and employee assistance programs.
 - d. The penalties that may be imposed upon employees for drug violations occurring in the workplace.
3. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a).
4. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - a. Abide by the terms of the statement.
 - b. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

5. Notifying the agency within ten days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction.
6. Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted:
 - a. Taking appropriate personnel action against such an employee, up to and including termination.
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f) above.

Environmental Impact

Signatories to this agreement hereby declare that no significant environmental impact will result from implementing this grant or service. If, under a future revision, this grant or service will be modified in such a manner that a project would be instituted that could affect environmental quality to the extent that a review and statement would be necessary, the North Dakota Department of Transportation (NDDOT) has certified to the National Highway Traffic Safety Administration (NHTSA) that it is prepared to take the action necessary to comply with the National Environmental Policy Act of 1969 (42 USC 4321 et seq.) and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1517).

Federal Funding Accountability and Transparency Act

The Contractor will report for each **sub-grant** awarded:

- Name of the entity receiving the award;
 - Amount of the award;
 - Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
 - Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
 - A unique identifier (DUNS);
 - The names and total compensation of the five most highly compensated officers of the entity if-- of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity;
- (i) the entity in the preceding fiscal year received:
 - (I) 80 percent or more of its annual gross revenues in Federal awards; and
 - (II) \$25,000,000 or more in annual gross revenues from Federal awards; and
 - (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;

- Other relevant information specified by the Office of Management and Budget in subsequent guidance or regulation.

Lobbying Restrictions

Federal Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The Contractor certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

State Lobbying

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

Non-Discrimination

The Contractor will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to:

1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21);
2. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
3. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794) and the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*; PL 101-336), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27);
4. The Age Discrimination Act of 1975, as amended (42U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;
5. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
6. The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970(P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse of alcoholism;
7. §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
8. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
9. Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made;
10. The Civil Rights Restoration Act of 1987, which provides that any portion of a state or local entity receiving federal funds will obligate all programs or activities of that entity to comply with these civil rights laws; and
11. The requirements of any other nondiscrimination statute(s) which may apply to the application.

Policy to Ban Text Messaging While Driving

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, Contractors are encouraged to:

Adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving:

1. Company-owned or rented vehicles, or Government-owned, leased or rented vehicles;
or
2. Privately-owned when on official Government business or when performing any work on or behalf of the Government.
3. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

Political Activity (Hatch Act)

The Contractor will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.